

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

KENNETH H. KATZ
9801 Lakeshore Road
Newton, WI 53063,

Case No: 19-cv-00864
Case Code: 30301

Plaintiff,

FOREFRONT DERMATOLOGY, S.C.,
f/k/a DERMATOLOGY ASSOCIATES OF
WISCONSIN, S.C.
Successors and Assigns
c/o CT Corporation System, Registered Agent
301 S. Bedford Street, Suite 1
Madison, WI 53703

Involuntary Plaintiff,

vs.

UNITED OF OMAHA LIFE INSURANCE
COMPANY,
Successors and Assigns
c/o The Prentice Hall Corporation System, Inc.,
registered agent
8040 Excelsior Drive, Suite 400
Madison, WI 53717

and

ABC INSURANCE COMPANY,

Defendants.

NOTICE OF REMOVAL

Defendant, United of Omaha Life Insurance Company (“United of Omaha”), states as follows:

1. An action was commenced by personal service of the Summons and Complaint upon the Agent for Service or Process for United of Omaha Life Insurance Company on May 16, 2019, entitled *Kenneth H. Katz and Forefront Dermatology, S.C., f/k/a Dermatology Associate of Wisconsin, S.C. v. United of Omaha Life Insurance Company and ABC Insurance Company*, venued in the Circuit Court for the State of Wisconsin, Manitowoc County Court, Case No. 2019CV000214. Plaintiff Katz (“Katz”) alleges in the Complaint that United of Omaha breached its insurance contract and failed to make payment of claims under Wisconsin Statute § 628.46 by denying his claim for disability insurance benefits under a Group Long-Term Disability Benefits insurance policy (“Policy”) United of Omaha issued to Dermatology Associates of Wisconsin S.C. (“Dermatology Associates”) of which Katz was a beneficiary as an employee of Dermatology Associates and an eligible physician. Katz seeks a monetary judgment against United of Omaha in the form of consequential damages including the full amount of disability benefits owed under the Policy, prejudgment interest, statutory litigation costs, and reasonable attorney fees.

2. The Complaint states that Plaintiff Kenneth H. Katz is a resident of the State of Wisconsin and that Involuntary Plaintiff Forefront Dermatology, S.C., f/k/a Dermatology Associates of Wisconsin, S.C. is also a corporation organized under the laws of the State of Wisconsin with a principal place of business in Manitowoc, Wisconsin. The Complaint further alleges that United of Omaha is an insurance company

incorporated under the laws of the state of Nebraska with a principal place of business in Omaha, Nebraska.

3. The Court has original jurisdiction over this matter under 28 U.S. C. § 1331 because the disability policy at issue is governed by the Employee Retirement Income Security Act of 1974 (ERISA), 20 U.S.C. §§ 1001 *et seq.*; 1132(e) and therefore, this case may be removed to this Court pursuant to 28 U.S.C. § 1441(a). *See* accompanying Declaration of Tony Bombassi, and a true and correct copy of the United of Omaha Group Long-Term Disability Benefits policy, attached as Exhibit 1 thereto.

4. The Court also has jurisdiction over this action under 28 U.S. C. § 1332 in that there exists complete diversity of citizenship between Plaintiffs and United of Omaha.

3. Removal is timely under 28 U.S. C. § 1446(b), which allows United of Omaha thirty (30) days from the earlier of the date of service or receipt of Plaintiff's Complaint to request removal. The Summons and Complaint were served upon United of Omaha on May 16, 2019.

4. Attached as **Exhibit A** is a true and correct copy of Plaintiff Katz's Summons and Complaint which were served upon United of Omaha's Agent for Service of Process on May 16, 2019. United of Omaha has not otherwise appeared in this action. No further proceedings have been had therein, and trial has not yet commenced.

6. Also attached as **Exhibit B** is a copy of the Notice of Filing Notice of Removal, which is being filed in the State of Wisconsin Circuit Court for Manitowoc County.

7. By filing the instant Notice of Removal, United of Omaha does not waive, and fully reserves, all defenses it may have, including but not limited defenses of failure to state a claim upon which relief can be granted, lack of personal jurisdiction, lack of subject matter jurisdiction, and failure to exhaust administrative remedies.

8. Written notice of this Notice of Removal is being provided to Plaintiff Katz by service of this document on his counsel and by service upon Involuntary Plaintiff Dermatology Associates.

9. United of Omaha respectfully requests that the United States District Court for the Eastern District of Wisconsin accept this Notice of Removal and that it assume jurisdiction of this cause and issue such further orders and processes to bring before it all parties necessary.

NILAN JOHNSON LEWIS PA

Dated: June 12, 2019

By: s/ William D. Hittler
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**ATTORNEYS FOR DEFENDANT UNITED
OF OMAHA LIFE INSURANCE
COMPANY**